IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA

STATE OF LOUISIANA, ET AL.

Plaintiffs,

v.

JOSEPH R. BIDEN, JR., in his official capacity as President of the United States, ET AL.

Defendants.

Case No. 2:21-cv-00778

Honorable Judge Terry A. Doughty

Magistrate Judge Kathleen Kay

NOTICE OF FILING OF NEW ADMINISTRATIVE RECORDS, A COMPLETED ADMINISTRATIVE RECORD, AND AN AMENDED ADMINISTRATIVE RECORD

Pursuant to this Court's November 17, 2021 Memorandum Order (Record Order), Doc. 180, Defendants hereby file three new administrative records, one completed administrative record, and one amended administrative record. These new, completed, and amended administrative records are being lodged with the Court on physical media, in the form of a USB drive, and served on counsel for Plaintiffs in the same format. Defendants are also filing a courtesy copy of the USB drive with the Chambers of Judge Doughty.

Defendants previously filed two administrative records with the Court on October 1, 2021. Doc. 172. Those administrative records were limited to agency actions that occurred before the Complaint, Doc. 1, was filed. *E.g.*, Doc. 172-1 ("This administrative record does not encompass agency actions that occurred after the Complaint was filed on March 24, 2021."). On November 17, 2021, the Court's Record Order interpreted the scope of the Plaintiffs' Complaint to include "all lease sales which have been postponed or cancelled, including those that were scheduled after the date of the Complaint." Record Order, at 6–7.

Given the Court's interpretation of Plaintiffs' Complaint, Defendants now file three new administrative records with the Court for agency actions or alleged inactions that occurred after the Complaint was filed but that the Court has determined are challenged in the Complaint.

These new certified administrative records are as follows:

- An administrative record for the Bureau of Land Management's (BLM's)
 April 21, 2021, decision not to hold second-quarter 2021 lease sales. This record bears Bates stamps BLM-Q2000001 to BLM-Q2000484. This record is certified by the attached Declaration of Merry Gamper.
- An administrative record for BLM's alleged failure to act in the third- and fourth-quarters of 2021 with respect to holding lease sales in those quarters.
 This record bears Bates stamps BLM-Q3000001 to BLM-Q3003540. This record is certified by the attached Declaration of Merry Gamper.
- An administrative record for the Bureau of Ocean Energy Management's (BOEM's) alleged failure to act in 2021 with respect to sales proposed under the current five-year program. This record bears Bates stamps BOEM-II0001 to BOEM-II0449. This record is certified by the attached Declarations of Cara Lee MacDonald and Walter Cruikshank.

In addition to requiring Defendants to file the foregoing new records with the Court, the Court's Record Order also directed Defendants to complete the two existing records to include any documents and materials from the White House or environmental groups that were considered, directly or indirectly, in reaching the agency decisions to which those records correspond. The Department of the Interior conducted an additional search and did not locate any such documents or materials within the scope of these existing records. In conducting that

search, however, Defendants located 20 additional documents of other types that were considered by the agency in reaching the challenged onshore decisions that occurred before the Complaint was filed. Accordingly, Defendants are filing a completed administrative record for those onshore decisions. The completed administrative record bears Bates stamps BLM_I000001 to BLM_I003186; the new documents bear Bates stamps BLM_I002705 to BLM_I003186. This completed record is certified by the attached Declaration of Merry Gamper.

Finally, Defendants are filing an amended administrative record for the BOEM decisions that occurred before the Complaint was filed. After further review, Defendants realized that the BOEM record previously lodged with the Court contained post-decisional documents at BOEM00147–74. Additionally, two documents bearing that were previously disclosed to Plaintiffs as bearing Bates stamps BOEM00213 to BOEM00217 have been added to the record. Because post-decisional documents are outside the scope of an administrative record, these documents have been removed in the amended record. The amended record bears Bates Stamps BOEM00001 to BOEM00146 and BOEM00175 to BOEM00217, and is certified by the attached declaration of Walter Cruikshank.

Additionally, certain documents have been withheld from the new records on basis of asserted privileges, which are identified in privilege logs. The onshore privilege log is enclosed with this filing, and pursuant to agreement with counsel for Plaintiffs, the offshore privilege log will be exchanged on Monday, February 7, 2022. The accompanying Declaration of Laura Daniel-Davis also invokes the deliberative process privilege for some of these records.

The foregoing administrative records and privilege logs are based on searches that Interior conducted in preparing the two original administrative records as well as searches conducted in December 2021 and January 2022 to comply with the Court's Record Order. However, an additional collection of documents was obtained on February 4, 2022. The February 4, 2022 collection of documents must still be reviewed for responsiveness and privilege. Defendants are working to complete that review as soon as possible. Should responsive documents be identified within that February 4, 2022 collection of documents, Defendants will further supplement the records and privilege logs as appropriate.

Finally, Defendants include the Declaration of Susan Lee, which explains the significant steps that BLM took from May 2020 to October 2021 to prepare the 2020 BLM Specialist

Report on Annual Greenhouse Gas Emissions and Climate Trends from Coal, Oil, and Gas

Exploration and Development on the Federal Mineral Estate, which has been used to support lease sales in the first quarter of 2022.

Respectfully Submitted, this 4th Day of February, 2022.

TODD KIM

Assistant Attorney General Environment & Natural Resources Division U.S. Department of Justice

By /s/ Michael S. Sawyer

THOMAS W. PORTS, JR., Trial Attorney MICHAEL S. SAWYER, Senior Attorney Natural Resources Section
Ben Franklin Station, P.O. Box 7611

Washington, D.C. 20044-7611

Telephone: (202) 305-5492 (Ports)

(202) 514-5273 (Sawyer)

Fax: (202) 305-0506 Email: Thomas.Ports.Jr@usdoj.gov Michael.Sawyer@usdoj.gov

Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on February 4, 2022, I caused the foregoing hard copy materials to be delivered to a mail service for standard overnight delivery to counsel for Plaintiffs.

/s/ Michael S. Sawyer Michael S. Sawyer